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# S P E E C H

OF

THE HON. JAMES EMOTT,

IN THE

HOUSE OF REPRESENTATIVES

OF

THE UNITED STATES

*DELIVERED THE 12th JANUARY, 1813,*

ON THE BILL IN ADDITION TO THE ACT ENTITLED,

“AN ACT TO RAISE AN ADDITIONAL MILITARY FORCE,”

AND FOR OTHER PURPOSES.



NEW-YORK :

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1813.



# S P E E C H,

&c.

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MR. CHAIRMAN,

I MEAN no common-place remark, when I declare to you, that I address you on the subjects which have been brought into this debate, and as I think properly so brought, with great reluctance. My general deportment since I have been honoured with a seat on this floor, is sufficient evidence to you and the committee, that I feel an unwillingness to mingle in the war of words, which is carried on here. There are causes which add to this repugnance on the present occasion. The debate has been continued for such a length of time, and in part has been conducted with so much asperity, that the minds of all have become fatigued, and the passions of many inflamed. I know, and I duly appreciate the difficulties which, under such circumstances, surround and face the speaker. But, sir, there are considerations of public duty, and individual propriety, which urge, nay, demand of me, to ask your patience, and the indulgence of the house, while I present to you and to them my view of the great subjects involved in this discussion.

I listened, sir, with great attention, and certainly with much pleasure, to the gentleman from Louisiana, (Mr. Robertson) who addressed the house for the first time yesterday. Against some of his positions, and some of his doctrines, I must however enter my protest. The gentleman, in the silence of the minority, finds cause for censure; they are not of equal utility with guide-posts; which, if they do not accompany the traveller in his journey, at least point to his way. And yet when it occurred to him, that the minority did sometimes interpose with their advice, their directions, and if you please, their censure, they were held up by him, as fit objects of distrust. The ultimate object of the opposition being, as he supposes, power, he appears to think that when they do advise, it will be for the purpose of embarrassing their opponents, of procuring their assent to measures, which will end in their downfall. Thus, if we remain silent, we do not perform our duty; and if we object to majority plans and views, or propose measures which are not stamped with the mark of executive approbation, we do worse; we are plotting the destruction of the men in place, not with a view to the public welfare, but to individual interest. This is really placing the minority in an awkward situation; and after all we shall, I believe, have to pursue the track of former minorities. With the good pleasure of the gentle

man, we will continue to mark the public course of public men, and when we believe they lose sight of, or disregard, the essential rights and vital interests of the people, for whose welfare, and at whose expense, this government is maintained, we must be allowed to oppose them in a constitutional and orderly manner.

The gentleman from Louisiana, has gone into a course of reasoning, to repel the charge and the suspicion of French influence, in or out of the administration. With his facts, or his deductions, I have nothing to do. I hope it is true, that there is no understanding between our government and that of France, with respect to the measures which have been formerly adopted, or are now pursuing, against Great-Britain. Nay, I am willing to allow, that the persons in the majority, are as pure in their views, and as patriotic in their intentions, as men in the opposition can be. But after saying this, I hope I may be permitted to ask the gentleman to re-consider the judgment he has been pleased to pass upon the Northern and Eastern parts of the union. He believes in the existence of a British party in that country, and intimates, that the charge of a French influence elsewhere is a mere cover: it is a dust, raised to draw off the attention, or obscure the vision of the people. Sir, we sometimes hear of this charge of British influence at the eastward. The charge is made there by the wicked, and not unfrequently believed by the weak; the latter have our pity, the former our contempt.

The influence of British feelings! Yes, sir, the eastern people are sometimes actuated by British feelings, but they are the feelings which operated on their ancestors, when they left England, because they loved liberty, and hated oppression. They are the feelings, which operated on some, even of the present generation, when they staked their homes, and their fire-sides, on a contest for their political rights; when, at the hazard of their lives and fortunes, they opposed British power and claims. The influence of British principles! Yes, sir, they are actuated by British principles, but, they are the principles of a Milton, a Locke, and a Sidney; principles which teach them that government is intended for the benefit of the people, and not for advantage of their agents; principles which teach them, that it is not only the right, but the bounden duty of the people, to mark the conduct of their rulers, and to reason on its fitness; to bestow applause where it is due, and not to withhold censure where it is merited. When, sir, they shall no longer be actuated by such feelings, and such principles; when they shall subscribe to the doctrines, that the men in power can do no wrong; that the will of the executive is in all cases to be obeyed, and that they must speak of the acts of the administration, only to applaud—then I shall begin to believe, that they are under the influence of French principles, and are fit for slaves.



Mr. Chairman, I am aware that in the discussion I am about commencing, I shall render myself obnoxious to the wit of gentlemen who think that to bring into view other topics, than those which arise out of the details of the bill now on your table, is to go beyond the range of legitimate debate. The bill contemplates the raising an additional military force of twenty thousand men, thus increasing the military establishment, or the standing army of the country, to upwards of *fifty-five thousand men*. Now, sir, with the details of this bill I have nothing to do. Nay, I will confess to you that I like the bill as it stands, providing for enlistments for one year only, better than I should, were it amended as has been proposed, by prolonging the term, precisely for the reason that the force will be less efficient and dangerous, and more under legislative control. I meddle not with the fitness of the instrument. That is the business of other men. But being opposed to the continuance of the war offensively, as I was to its commencement, I cannot consent to grant any further force to carry it on. The only check or control which the legislature can constitutionally have over a war after it is begun, is in withholding the means; and in voting the means, either in men or money, every member of the legislature ought to be satisfied of the necessity of prosecuting the war.

According to my best judgment, sir, this war was improperly commenced, and is unnecessarily continued; and I shall now proceed to explain the grounds of that judgment by an examination of the causes of the war, as they existed at its commencement, and as they now remain. As this is the first time that the subject has been brought into debate, and indeed the earliest opportunity which has been allowed, of an open discussion, I am sure I shall be pardoned for going into detail, if I even should be tedious, as I know I shall be uninteresting. It is a right which I think I may claim, to state distinctly my reasons and motives for the votes which I have given, and may give, in relation to the war, after what has been said in this house, and out of it, about the opposition to the views of the administration.

In making this examination, I shall pass in review, in as brief a manner as possible, the three great subjects of complaint against Great-Britain: her orders of blockade, her orders in council, and her practice of impressment. But for one or all of these, the war certainly would not have been declared; and I may assume that but for one or all of these, the war ought not to be continued. I cannot indeed but recollect, that the gentleman from Louisiana, has mentioned the conquest of Canada, and of the Floridas, as causes for the continuance of the war. As respects the Canadas, I have heretofore understood that their reduction might be a consequence of the war, but never till now did I know, that it was to be shifted into a cause for carrying it on. And in regard to the Floridas, I will not consent that their conquest should, in the existing relations of this country, be

either a cause or a consequence of war. I will confess to you, that an invasion of the colonies of Spain at this time, under the stale excuses of convenience, or necessity, strikes me with abhorrence. It is not only against the genius of our government, and as I hope the character of our people, but if persisted in, will be a foul blot in our national history.

#### *AS TO THE BRITISH BLOCKADES.*

In order that I may not be said to misrepresent the views of the executive government, or of this house, I will read to you the charge of the one and the other respecting blockades. The President, in his war message of June last, says, "Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea." What is thus generalized by the executive, is made particular by the report of the committee of foreign relations, which it will be recollected, and I make the observation once for all, was made the act of this house by placing it, against all former usage, on the journals.

The report, after a dissertation on the carrying trade, and its interruption by the British, proceeds to say, "in May, 1806, the whole coast of the continent, from Elbe to Brest inclusive, was declared to be in a state of blockade. By this act, the well-established principles of the law of nations, principles which have served for ages as guides, and fixed the boundary between the rights of belligerents and neutrals, were violated." This then being the charge, we may inquire, whether the order of blockade, of May, 1806, was really a just cause of war in June, 1812, and whether it yet continues to be so?

I understand, Mr. Chairman, that the British government, theoretically at least, admits the ancient rule of national law respecting blockades. Not to go further back than the correspondence of 1811; the British Minister in his letter of July 3. to the Secretary of State, in reference to this very blockade, declared, "if the orders in council should be abrogated, the blockade of May, 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force." Indeed, sir, the President in his message, and the committee of foreign relations in their report, distinctly admit the correctness of the British theory, and urge it by way of complaint against her practices. I have not discovered that we have changed our ground on this subject. We have not yet, to my knowledge, adopted the Napoleon principle of maritime law, that a blockade requires a besieging force, and can only be applied to strong or fortified ports. It therefore follows, that the dispute with England, relative to blockades, is not about any new principle advanced by her, but about her practice in opposition to her own principles and our avowed doctrine. Now, sir, with this view of the

subject, was the order of blockade of May, 1806, a cause of war in 1812?

The order of blockade of the 16th of May, 1806, with an exception which I will presently notice, declares "the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive," to be in a state of blockade, but provides that such blockade was not to extend to neutral vessels, laden with goods not being enemy's property or contraband of war, provided that the vessel going in, had not been laden at a port belonging to an enemy, and the vessel going out was not destined to an enemy's port, and had not previously broken the blockade.

In regard to so much of the order as relates to enemy's property and contraband of war, it affords no ground of complaint; as by the law of nations we could not, even in the absence of a blockade, cover the former or trade in the latter. The objectionable part of the order must therefore be that which prohibits the entry of a neutral vessel, which had loaded at an enemy's port, and the departure of a ship destined for an enemy's port. Now the obvious effect of these restrictions, was to prevent neutrals from carrying on the colonial, and engaging in the coasting, trade of France. The inward bound vessel was not to have a cargo which had been put on board in a French port, and thus the trade from a colony to the mother country, as well as the coasting trade in the latter, was prevented. The outward bound vessel was not to be intended for a French port, and thus the trade from the mother country to the colony was prohibited. If the order had an operation beyond this, it must have been almost a thing of accident.

Let it now be recollected, that the British have, from the year 1756, contended that a neutral was not authorized by the law of nations, to engage during war in an unaccustomed trade with the colonies, or on the coasts of their enemy. To capture vessels engaged in such trade, we know that they did not think it necessary to resort to blockades. By this order, therefore, they claimed no new right, nor did they under it exercise any new power over neutrals. In fact, while it prohibited the direct, it left free, or rather threw open to neutrals, the indirect colonial trade. The nature of the cargo, or its origin, was not a subject of inquiry: it was sufficient that it was not put on board the vessel at a French port. And we have the authority of the administration, for saying that in this respect, it was not only calculated to benefit our merchants, but that they actually were benefited by it. In the letter from Mr. Munroe to Mr. Foster, of the 1st of October, 1811, it is expressly stated,—“That this order, by allowing the trade of neutrals in colonial productions to all that portion of the coast which was not rigorously blockaded, afforded to the United States an accommodation in a principal point then at issue between our governments, and of which their citizens extensively availed themselves.”

When we look at the order of blockade in this point of view, and without the exception, it is surely not necessary to ascertain the extent of coast embraced by it, nor to calculate the number of ships it would take to blockade such coast. This may be pretty amusement for grown children, who need examples in the first rules in arithmetic, but it is unworthy of grave statesmen, when deciding on the momentous question of peace or war. It was in a special manner, as I shall more distinctly show hereafter, unworthy of the member of the administration who has taken a lead in this war, and who, in the opinions of many, is now nursing it. Such a blockade was in itself harmless, nay, more, it was beneficial to us. It wanted no fleets to enforce it. Our merchants at the time would have seen with pleasure a like blockade of all the coasts, rivers, and ports, from North Point to the Rock of Gibraltar.

It remains then, Mr. Chairman, to be seen, whether the exception in the order of May, made it so objectionable as to call for war. The order, after stating the kind of trade which was not to be interrupted, has this expression, "save and except the coast, rivers, and ports, from Ostend to the river Seine, already in a state of strict and rigorous blockade, and which are to be considered as so continued." In truth, as the mere reading of the order will show, if there is any thing substantially hostile to our rights to be found in it, it is in this saving clause—With this, the order may be considered as a blockade of the coast from Ostend to the Seine, but surely not beyond that. Indeed, the administration so well understood this, that Mr. Monroe, in his letter to Mr. Foster, of the 1st of October, 1811, declares it almost in terms. "If, (says Mr. Monroe,) you will examine the order, you will find that it is strictly little more than a blockade of the coast from the Seine to Ostend. There is an express reservation in it in favour of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral powers are permitted by it to take from their own ports every kind of produce, without distinction as to its origin, and to carry it to the continent, under that limitation, and with the exception only of contraband of war and enemy's property, and to bring thence to their own ports in return whatever articles they think fit."

An attentive perusal of the exception will establish another fact, that the order of May, 1806, was not even a blockade of the coast from Ostend to the Seine. It merely excludes that country from the benefits which were to arise to neutrals under the order, by recognizing the existence of a prior blockade, and providing for its continuance. The blockade thus kept alive, is that of the 9th of August, 1804—"At the entrance of the ports of Fecamp, St. Vallery au Caux, Deippe, Treport, the Somme, Naples, Boulogne, Calais, Gravelines, Dunkirk, New-port, and Ostend." And of this blockade we hear of no

complaint, either as to its extent, or the want of ability to enforce it.

Will gentlemen now say, what has never yet been pretended, that from the extent of coast, the British could not, or did not, enforce the blockade? We may ask them to look at the order, and then say whether it contains a fair enumeration of the principal ports or points. If so, and I think I may venture to say it does, had not the British at the time a sufficient naval force to blockade eleven or twelve places in their own seas, and almost in sight of their own coasts? If this is admitted, and I presume no one will undertake to question it, are we not certain, from our knowledge of the history of the times, that such force was applied? Do we not know that Bonaparte not only threatened an invasion of England at the time, but had a powerful army encamped for the purpose on this very coast? And do we yet doubt whether, under such circumstances, the British had not a naval force on the French coast, and before these places, sufficiently strong to enforce the blockade?

There is still one other circumstance in relation to the order of May, 1806, which is worthy of notice, and that is, that it was an act of the Fox administration. To those who have attended to the history of that great man, it is well known, that Charles James Fox was, at every period of his life, and in all circumstances, the open and the sincere friend of this country. When we were colonies of Great-Britain, we had his exertions, and after our independence, his wishes, in our favour. To the last moment of his life, he felt interested in our prosperity. It was indeed, if we are to believe Monroe, his ruling passion strong in death. And yet we are now called on to say, that under the guise of friendship, he not only contemplated a vital blow at our neutral rights, but actually did the deed. We are now willing, in the face of the world, to declare that this great champion of neutral rights, and American interests, was the author and founder of a system, which not only made just and proper the French decrees, but which called for war on the part of this nation.—Sir, it is not doing justice to the memory of the man, or his intentions towards us, to say so.

Thus far, Mr. Chairman, I have ventured on the face of the order itself; but to make assurance doubly sure, I will now place before you the opinions of the very persons who recommended war on account of the blockade. These opinions, given at different times, will prove most satisfactorily, that as long as the order of blockade of May, 1806, had a practical effect and operation; while it still had substance as well as form, it was not only not viewed by the administration as violating our neutral rights, but was received as a benefit to this country, and a relaxation on the part of Great-Britain.

The order, it will be recollected, bears date the 16th of May, and it was communicated by Mr. Monroe, then our Minister at London, to Mr. Madison, then Secretary of State,

by a letter dated the 17th. In this letter Mr. Monroe says, "early this morning I received from Mr. Fox a note, a copy of which is enclosed, which you will perceive embraces explicitly a principal subject depending between our governments, though in rather a singular mode." The note is couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless, it takes it from many ports already blockaded; indeed, from all east of Ostend and west of the Seine, except in articles contraband of war and enemy's property, which are seizable without a blockade. And in like form of exception, considering every enemy as one power, it admits the trade of neutrals within the same limit to be free in the productions of enemy's colonies in every, but the direct, route between the colony and the parent country."—"It cannot be doubted that the note was drawn by the government in reference to the question, and if intended by the cabinet as a foundation on which Mr. Fox is authorized to form a treaty, and obtained by him for that purpose, it must be viewed in a very favourable light."

On the 20th of May, Mr. Monroe again writes to this government, and speaking of the order, he says, "from what I could collect, I have been strengthened in the opinion, which I communicated to you in my last, that Mr. Fox's note of the 15th was drawn with a view to a principal question with the United States, I mean that of the trade with enemies colonies." In a letter of the 9th of June, after detailing a conversation with Mr. Fox in part relating to the order, Mr. Monroe declares, "I concluded however from this conversation, as I had done from what had occurred before, that this measure had been taken to prevent the further seizure and condemnation of our vessels on the principle in discussion between our governments,"—"several circumstances, independent of those alluded to, support this idea. It is not necessary to state them, because I trust the business will ere long be placed on a much more solid footing."

Here then we have a full expression of the opinion of Mr. Monroe at the time, and formed, as it would seem, with all due caution. But it may be said, that he was too credulous on this occasion: that he was deceived by the British ministry, and that he afterwards discovered and renounced his error. Hear what he says in his new capacity of Secretary of State, to Mr. Foster, in his letter already referred to, of the 1st of October, 1811. After remarking on the order of May, 1806, that it was strictly little more than a blockade of the coast from the Seine to Ostend, he observes, "why then did the British government institute a blockade, which with respect to neutrals was not rigorous as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great-Britain, you will find the answer: a controversy had taken place between our go-

vernments on a different topic, which was still depending: The British government had interfered with the trade between France and her allies in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your government professing its willingness to make a satisfactory arrangement of it, issued the order which allowed the trade, without making any concession as to the principle, reserving that for adjustment by treaty. It was in this light that I viewed, and in this sense that I represented, that order to my government."

This gentleman has, in this case at least, the merit of consistency. His opinion of the order in 1806, as negociator, was not changed, when, in 1811, as Secretary of State, he was in possession of the views, the wishes, and the information of the executive government. It is possible, however, though certainly not very probable, that he may be mistaken on this subject, and if he is, we will surely find the mistake exposed and corrected by the committee of foreign relations. Permit me, sir, to read to you the part of their "report or manifesto," which contains their opinion of the order. "Your committee think it just to remark, that this act of the British government does not appear to have been adopted in the sense in which it has been since construed. On consideration of all the circumstances attending the measure, and particularly the character of the distinguished statesman who announced it, we are persuaded that it was conceived in a spirit of conciliation, and intended to lead to an accommodation of all differences between the United States and Great-Britain."

Notwithstanding this broad apology, if not justification, of the order, the committee deemed it a just cause of war; and why, Mr. Chairman? Because "it has been made by his successors a pretext for that vast system of usurpation, which has so long oppressed and harassed our commerce." Indeed! and are we to commence and carry on an offensive war, on account of the order of blockade, not for its own demerit, but because it was made a pretext for another system? But where do gentlemen learn that the order of May, 1806, was made a pretext for the orders in council? Certainly they do not find it in the orders themselves, nor in the attempted justification of them by the British government. Heretofore I had understood, that, the pretext for the orders in council, were the French decrees, and the war on British commerce commenced by those decrees.

But not to detain you longer on this subject, let me say, that as it appears the order of May, 1806, was adopted to benefit and not to injure our commerce; as it was so understood by this government at the time and up to the moment when war was declared; as it was really without any possible operation, good or bad, when war was resolved on, it follows that it was not a just cause of war.

If, however, the blockade of May, 1806, was a just cause of war

in June, 1812, is it so now? On the 29th of June Lord Castlereagh informed our agent in England, what we indeed already knew, that in point of fact this blockade had been discontinued for a considerable length of time, and that there was no intention of recurring to it without a new notice to neutrals in the usual forms; and we have the authority of the administration for saying, that they are satisfied on this point. The order has therefore fairly sunk beneath the horizon. It is emphatically no longer a cause of controversy or of war.

One word more on the subject of blockades, and I have done with them. The President, on the 6th of July last, sent to this house a report of the Secretary of State, Mr. Monroe, of the captures made by the belligerents during the present European war, and of the edicts bearing upon neutral commerce. In the enumeration of edicts, we have the British blockade of the canal of Corfu, of the 18th of August, 1810, which he says "in effect was an attempt to blockade the whole Adriatic sea." An attempt thus to close a sea upon neutrals, was certainly a novel, and most injurious, application of the right of blockade. The case was cited to us, as explanatory of the hostile views and practices of Great-Britain, as a practical commentary on the executive text, relative to British blockades. But what will you say, sir, when you find from papers on your table, which have been sent from the office of state, that the Secretary has either mistaken or mistated the extent of this blockade? Such in truth is the fact. Mr. Pinkney, in his letter of the 24th of August, 1810, transmitting the notification of the blockade, intimates that it is a blockade of the Adriatic; but in that of the 7th of September following, he declares to the government, that this construction appears to be erroneous, and that "the canal to which the notification is now understood to apply, is the narrow passage to the eastward of Corfu." This blockade therefore of an entire sea, dwindles down to that of the strait, between the island of Corfu and the Grecian shore. Reflections will urge themselves on the mind, on a statement so manifestly untrue; but I pass them over.

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#### THE BRITISH ORDERS IN COUNCIL.

After mentioning blockades, the President, in his war message of June last, brings to view the next great subject of complaint, the Orders in Council.—"Not content with these occasional expedients for laying waste our neutral trade, the cabinet of Great-Britain resorted at length to the sweeping system of blockades, under the name of Orders in Council; which has been moulded and managed as might best suit its political views, its commercial jealousies, or the avidity of British cruisers."

The committee of foreign relations, in this, as in the case of blockades, make particular what was left general by the executive; and they have so far at least the merit of making out to the nation, and to the world, the actual causes of the war. The Order



in Council of January, 1807, the first of the series, is mentioned as a matter of history; but as this had passed away, the committee place the grievance of the nation on the order of November, 1807.—“We proceed to bring into view the British Order in Council of November 11, 1807, which superseded every other order, and consummated that system of hostility on the commerce of the United States, which has been since so steadily pursued. By this order, all France, and her allies, and every country at war with Great-Britain, or with which she was not at war, from which the British flag was excluded, and all the colonies of her enemies, were subjected to the same restrictions as if they were actually blockaded, in the most strict and rigorous manner; and all trade, in articles, the produce and manufacture of the said countries and colonies, and the vessels engaged in it, were subjected to capture and condemnation as lawful prize.” “It would be superfluous in your committee to state, that by this order the British government declared direct and positive war against the United States.”

This order is certainly extensive in its terms and operation, and gave strong grounds of complaint to neutral nations. But there was one objection to making it a substantive cause of war in 1812, and that is, that it really had not then a legal existence. Yes, sir, strange as it may seem, we were called upon to declare war, and did declare war, for a thing which rested only in history. The British Order in Council of the 26th of April, 1809, after reciting the order of 1807, *expressly* *repeals* it, and then declares, “that all the ports and places as far north as the river Ems, inclusively, under the government of France, together with the colonies, plantations, and settlements in the possession of those governments respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbetello and Pesaro, inclusively,” shall continue subject to the restrictions of blockade, “and every vessel trading from and to the said countries or colonies, plantations or settlements, together with all goods and merchandise on board, shall be condemned as prize to the captors.”

It may be said, and to a certain extent it is certainly true, that the orders of November, 1807, and of April, 1809, are similar in principle: but it cannot be pretended that they are equally obnoxious in their effects. It is truly stated in the report, that the order of November, 1807, interdicted the trade of neutrals to France, to the allies of France, to countries at war with England, and to countries from which the British flag was excluded. The order of April, 1809, applies only to the trade with France, with Holland as far as the Ems, and with a small part of the north of Italy. Again, the order of November, 1807, prohibits all trade in articles the produce or manufacture of the interdicted countries. Nothing of this is found in the order of April, 1809. In truth, the British order existing when we declared war, though a great let and hinderance to us, did not jus-

ally the conclusion drawn by the committee, that the British government had completely usurped the dominion of the ocean, and forbid all trade. A wide spread of commerce was left untouched by British regulations or orders; and if we credit the administration, that which was interdicted, was neither inviting to our merchants, nor desirable for the country.

Thus standing the charge against Great-Britain, I will now, as in the case of blockades, examine whether the order in council of April, 1809, was a reasonable cause of war, and if it remains so?

War, being one of the severest calamities that ever scourged human kind; carrying in its train every vice, and laying a foundation for the commission of every crime; it follows, that the nation which commences it, should act but from necessity. If just to itself, it should not only be certain, that its opponent is clearly wrong, but also that it is itself clearly right. Again, the agents in the government having the power to make war, are not true to their trust, if in addition to the causes of war, they do not look to the consequences and effects of it. If an evil exists, it ought to be certain that war will be a remedy for it, and that the good to be acquired, will more than balance the injuries to result from the war.

In examining therefore this, and the other avowed causes of the war, whether they were, or are just and reasonable, I wish to be distinctly understood, as settling the case with this people and nation. If there is a wrong done to them by the orders in council, before, as their agent, I will consent to carry on a war for this cause, I must be satisfied that the wrong in practice is of sufficient magnitude to justify war; that the war is to afford a remedy for the evil; and that the remedy is not worse than the disease. A paper blockade of the Island of Tristan d'Acunha, or an order in council, prohibiting a commercial intercourse with that august sovereign, Jonathan Lambert, and his four subjects, however much in principle it may interfere with our rights, will never gain my consent, to a war either with Great-Britain or France.

In considering this cause of war, we are necessarily led to view the orders in council, in connexion with the French decrees. Taken separately, and without regard to the causes which led to them, or the reasons alleged by each nation for their continuance, the French decrees and the British orders are undoubted causes of war. Both nations, however, sought for a justification, in the conduct of their adversary, and the submission of neutrals. It is not perhaps material to ascertain which was the first aggressor, in this novel system of warfare; but if it was, and I have justly explained, the blockading order of May, 1806, or if that order was fairly understood by Mr. Monroe, and by the committee of foreign relations, it would seem to follow, that France took the first step, in this war on our rights and interests.

Be that as it may, this government has by its embargo and non-intercourse laws, and the offers made to the belligerents under them, considered both so much in the wrong, as to refuse to select either for an enemy in exclusion of the other, while the obnoxious acts of both remained. This, sir, necessarily leads to an examination, whether the French decrees were revoked, when we were called upon to declare war against Great-Britain. I speak the settled and firm conviction of my own mind, when I say they were not.

I have on a former occasion attempted to show, that the President was not authorised to issue his proclamation of the 2d of November, 1810, and that Congress ought not to have passed the non-importation law, of the 2d of March, 1811, the two acts which were the precursors of this war, because the note of the Duke of Cadore of the 5th of August, 1810, was not, and was not intended to be, a repeal of the French decrees. Without meaning to repeat what was then urged, I will briefly examine the practices of the French cruizers, the decisions of the French courts, and the declarations of the French government, in relation to the decrees, since the pretended revocation.

Mr. Chairman, it is not my intention to bring into this discussion the decrees of Bayonne and Rambouillet, which more than volumes speak the disposition of the French ruler towards us; and which at one time appeared to have made a deep and lasting impression on the administration. I cannot but recollect the declaration of Secretary Smith, in his address to the people, that "on the 20th of February, 1811, the French government did *officially*, and formally, through their minister, Mr. Serrurier, communicate to this government their fixed determination, not to restore the property that had been so seized." And when I do recollect this, and bring to mind also that the information was not given to the national legislature, before the passage of the non-intercourse law, and has never yet been laid before us by the executive, I dare not trust myself to speak of it.

Neither, sir, is it my intention, in any manner, to bring into question the motives of the President, in issuing his proclamation, or of the members of this and the other branch of the legislature, who voted for the non-intercourse law. I am willing to believe, that the executive, when he issued the proclamation, and congress, when it passed that law, which was in effect to validate the proclamation, acted under the impression that the French decrees were revoked: but I must believe also, that in this instance they were deceived, by the arts and cunning of the French government. Having been an actor in the scenes which preceded the non-importation law, I cannot, however, when I view them, with the light since afforded by the gentleman who was at the head of the department of State, acquit the President of all blame. Mr. Smith, in his address, states some things which we all know to be true. We know

that much doubt existed in this house and nation, with respect to the effect of the French note, and the intention of the French government: and we know also, that the non-importation law was delayed on account of the arrival of the new French minister, who it was confidently expected would be able to dispel our doubts. Sir, the minister came, and we received no information. How this happened, has been explained by Mr. Smith. He had a conference with Mr. Serrurier, and prepared a note, in order to obtain his formal answer, among other things, to the question, whether the decrees had been revoked, and what explanation he was authorized to give on the subject. Let Mr. Smith inform you how this was received by the President.—“But waiting on the President with it (the note, and on the 20th of February,) and *after having reported to him verbally* the result of the conference, I was to my astonishment told by him, that it would not be expedient to send to Mr. Serrurier any such note. His deportment throughout this interview evinced a high degree of disquietude, which occasionally betrayed him into fretful expressions.”

As to the practices of the French cruizers, we have it in the history of the times. From accounts not contradicted, and which cannot with truth be contradicted, we know that the French armed vessels, public as well as private, and in every sea, continued their aggressions on our commerce, under the principles of the decrees, notwithstanding the pretended revocation. When told of the revocation, their answer was a smile of contempt for our credulity. But without resorting to report and general history, we have a document from the state department, which establishes these depredations; I mean the report of captures laid on our table on the 6th of July last. In this we have given to us a list of forty-five captures, made by the French, since the 2d of November, 1810; of the vessels thus taken, eight are expressly said to have been burnt or sunk at sea by a French squadron. The papers relative to the French burnings, went to the department through this house, and we know, that in some instances, the certificate of the French commander accompanied the representations, proving that he acted under orders issued after the 2d of November.

This report of captures I am sorry, sir, to have it to remark, does not comprehend all the cases of French depredations on our commerce, after the date of the proclamation of November. As it was made up from communications by individuals, this was in some measure to have been expected; but it was not to be expected that any cases known in the office of state would have been omitted; and yet so is the fact. Among the papers which accompanied the President's message of the last session, is a list from our agent in France, of American vessels taken by French privateers since the 1st of November, 1810, and carried into the ports of France. In it we have with others the Robinson Ova, the Neptune, the Two Brothers, and

the Zebra, not one of which is mentioned in the report. Added to this, we know the protests and papers which went from this house, proved that the French squadron destroyed nearly thirty American vessels, instead of eight, as represented by the report.

As to the decisions of the French prize courts ; it will be recollected that Mr. Russell, in his letter to the Secretary of State, of the 8th of May, 1811, says, " it may not be improper to remark, that no American vessel, captured since the 1st of November, has yet been released, or had a trial." It is not necessary, therefore, to go further back. In the message of April 23d, 1812, relative to captures of vessels in the Baltic sea, we have from our agent, Mr. Warden, three cases of condemnation by the council of prizes at Paris, on the 10th September, 1811 ; the captures having been made in 1811. The ship *Julian*, with her cargo, was declared good prize, because, among other reasons, " that she was visited by several English war vessels ;" and the ship *Hercules*, because " that it was impossible she was not visited by the enemy's ships of war, in approaching the Isle of Anholt." In all the determinations of the French Courts, as far as we have any knowledge of them, the principles of the Berlin and Milan decrees have been recognized and enforced.

As to the acts and declarations of the French government : It has been more than once urged, that the admission of some of our vessels into France was a proof of the revocation of the decrees ; and yet, Sir, Mr. Russel, in his letter of May, which I have just mentioned, declares that the vessels whose entry had been allowed, had come direct from the United States, without having done or submitted to any known act which would have subjected them to the operation of the decrees. How then, Sir, can such admission be evidence of the revocation ? And how does it happen that the admission, if there was a revocation, was to proceed from the Emperor ?

In the answer of the French Emperor to the deputies from Hamburg and Bremen, we find him, on the 20th of March, 1811, saying that " the decrees of Berlin and Milan are the fundamental laws of my empire ; they cease only to have effect as to those nations which defend their sovereignty and maintain the *religion* of their flag." And what, I pray you, Sir, does his majesty mean by this *religion* of the flag ? It is, that the flag, if it does not give character to, shall protect the property under it. It is, that the passengers on board the vessel shall be considered as on neutral territory, and not be subject to capture. Have we really consented to maintain this religion of our flag ? I hope this is not yet to be numbered among our follies. And if we have not, is it not certain that the decrees remained in operation against us ? Again, his imperial majesty addressed his council of commerce on the 31st March, 1811, when he told them, and told us, that " the decrees of Berlin

and Milan are the fundamental laws of my empire. For the neutral navigation, I consider the flag as an extension of territory. The power which suffers its flag to be violated, cannot be considered as neutral. The fate of American commerce will soon be decided. I will favour it, if the United States conform themselves to these decrees. In a contrary case, their vessels will be driven from my empire." His majesty, then, had not come to a determination about our commerce in March, 1811. Its fate still depended on his good pleasure. He was willing not to apply the decrees to us, in case we adopted them ourselves, and joined him in the war he was waging for the freedom of the seas.

If, sir, any doubt on this subject remained, it must now be at an end. The French decree, with the date of the 28th of April, 1811, but actually made in 1812, and communicated by our agent to the English government on the 20th of last May, will for ever settle this question. By this paper the decrees of Berlin and Milan are "definitively" declared as not existing in regard to our vessels. And why? Because they were repealed in August, 1810? Not so, but because our law of March, 1811, was a formal refusal to adhere to a system, invading the independence of neutral powers, and of their flag. To the friends of the liberty, the prosperity, and the reputation, of the country, it cannot but be a source of melancholy reflection, to find our executive government, insisting on the revocation of the French decrees, and recommending for such revocation a non-intercourse and a war with England; when in every act of the French government, its courts, and its fleets, a direct negative is to be found to such revocation.

When, however, Mr. Chairman, the declarations of the French ruler, and the seizure, and condemnation, and destruction of our property, have been cited in proof of the existence of the French decrees, a distinction by way of apology has been made, between the internal and external application of them; we have been told that they existed against us merely as municipal regulations. What, municipal regulations to authorize and to justify the captures and the burnings on the Atlantic, and the captures and the condemnations on the Baltic! We shall look in vain for such a distinction, as coming from our good friend, *Napoleon the just*. He makes none such. He has not yet descended thus to trifle on this subject.

But what are the municipal regulations to which we are so willing to submit? They are, according to the Milan decree, that every vessel which shall submit to be searched by an English ship, or that sails from or to an English port, or from or to their colonies, or countries occupied by their troops: and according to the Berlin decree, all merchandise coming from English manufactories and colonies, is lawful prize. These regulations are to remain as long as England continues to deny

the inviolability of the flag; or in other words, shall deny that the flag of a neutral shall protect the property of an enemy.

Do we wish to know in what country these municipal regulations are to operate? The French note on the breaking out of the war with Russia, will give us some information on this head. The Duke of Bassano, the French minister of foreign relations, on the 25th of April, 1812, addressed a paper to Count Romanzow, chancellor of Russia, from which I will give you one or two extracts.—“ Count—His majesty the emperor of Russia, had acknowledged at *Tilsit* the principle, that the present generation should not have looked to the enjoyment of happiness, but on the ground that the nations in the full enjoyment of their rights, might give themselves up freely to the exercise of their industry : that the independence of their flag should be inviolable ; that the independence of their flag was a right belonging to them, and its protection a reciprocal duty of the one towards the other ; that they were not less bound to protect the inviolability of their flag, than that of their territory ; that, if a power cannot, without ceasing to be neuter, allow its territory to be taken away by one of the belligerent powers, so neither can it remain neuter in permitting to be taken from under the protection of its flag, by one of the belligerent powers, the property which the other has placed there : that all powers consequently have the right of exacting, that nations pretending neutrality, should cause their flag to be respected in the same manner as they enforce respect to their territory ; that so long as England, persisting in this system of war, should disavow the independence of any flag upon the seas, no power which is possessed of coast, can be neuter with respect to England.”—“ The emperor Alexander offered his mediation to the English government, and engaged, if this government would not consent to conclude peace upon the principle of acknowledging that the flags of all powers should enjoy an equal and perfect independence upon the seas, to make common cause with France, to summon in concert with her, the three courts of Copenhagen, Stockholm, and Lisbon, to close their ports against the English, to declare war against England, and to insist upon the adoption of the same measure by the various powers.”—“ Sweden had refused to shut her ports against England ; and Russia, in conformity to the stipulations of *Tilsit*, had declared war against her.” The great complaint against Russia, and the principal cause of the present war, as collected from this paper, is the permission to bring into Russia the produce of English colonies under foreign or neutral flags.

These municipal decrees, so called by our administration, therefore, are, or are to be, as extensive as the continent. All nations are to protect the religion of their flags. Any nation refusing or omitting to do this, loses its neutral character, and war is to be made upon it. Are these indeed mere municipal regulations? Have we no interests in these questions ; no

rights to claim or protect?—The events of the last twenty years have been such, as, if not to stupify, to astonish and paralyze the human mind. We lose the enormity of the conduct of the great despot of Europe, in the splendour of his achievements, and success of his enterprises. How else are we to account for the indifference with which we hear of his depredations on our property and his violations of our rights? How else does it happen, that we so carelessly receive, or make apologies for, his outrages on our people and nation?

To sum up all in a few words. The President was mistaken when he issued his fatal proclamation, and we were equally mistaken when we passed the non-intercourse law. The French decrees were not revoked. And we were called upon, by no duty to France or ourselves, to declare war against Great-Britain, on account of the orders in council. In this point of view, it is not necessary to have reference to the diplomatic warfare of last year, between our secretary of state and the British minister, then in this country; nor to inquire what kind of revocation was demanded by England. To all inquiries of this kind, the obvious answer is, that there was no revocation of any kind by France.

But it seems, to some gentlemen, that all this investigation, and indeed any investigation, on the subject, is useless. The honour and interest of the country called for this war. Sir, a well regulated sense of honour is a proud trait in the character of a nation, as well as in that of an individual; but let us not take tinsel for gold. Much has been said about submission, and the disgrace, individual and national, attending it. Is it not said, and is there not some foundation for the remark, that war with Great-Britain, in the state of our relations with France, was submission to the arts, or at least the duplicity, of Bonaparte? If to maintain the chastity of our character, was indeed our only object, we ought to have had all doubts removed as to the acts and intentions of the French emperor.

Was the pretended revocation by France an act of justice to us, or at all calculated for our benefit; or was it not a mere lure to lead us on to a war with England? The depredations on the high seas were continued to the extent of French power, and our commercial intercourse with France was fettered with new duties and oppressive regulations. In the letter of instructions from the secretary of state, Mr. Monroe, of the 26th of July, 1811, to our present minister in France, this subject is presented in a fair point of view. After remarking that it had been expected that our trade with France would have been placed on a fair footing, he says, *It appears from documents in his office, "that our commerce has been subjected to the greatest discouragement, or rather, to the most oppressive restraints."* "In short, that the ordinary usages of commerce between friendly nations were abandoned."—"If the ports of France and her allies are not opened to the commerce of the United States of



a liberal scale, and on fair conditions, of what avail to them, it may be asked, will be the revocations of the British orders in council?" Sir, I have nothing to add to these observations; they are strong in character, and not more strong than just. Would to heaven I could see a correspondent spirit in the scraps and morsels, which have been cast upon us, of the meagre communications of the man who was thus instructed. Nearly eighteen months have now passed, since this man, who "had the most flattering things said to him from the Emperor, relative to his appointment," reached France, and yet to this day we are ignorant of the great value of his labours. But if what he has done remains unknown, what he has not done is not so. The discouragements and restraints on our commerce remain as he found them.

If the British orders in council were a cause for declaring the war, are they a cause at this time for continuing it? Sir, the orders were revoked about the time we made the war, and though much has been said about conditions annexed to the repeal, rendering it unacceptable to this country, yet the administration understand it differently. The President, in his message at the commencement of this session, admits that the repeal was "susceptible of explanations meeting the views of this government." This cause of war has therefore vanished.

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#### *IMPRESSMENT OF SEAMEN.*

The injury done to our seamen under the British practice of impressment, was also made a cause of the war, and to the eye, at least, it is the only one which now remains.

Mr. Chairman, the discussion of this subject is attended with adventitious difficulties, growing out of the times and the state of the country. The public mind, in some sections of the union, is in such a feverish state on this account, from tales oft told of bondage, worse than negro slavery, and of condemnation without trial, that the person who is willing to "hear the other party," is at once branded with foreign partialities, and threatened with the trial by mob. Besides, Sir, it is intimated that a negotiation is to be had, or may possibly be attempted, which may be affected by an open discussion of the topic. In point of duty, I feel myself called upon to take some notice of the subject, but my view of it will be less perfect than in a different situation I should think desirable.

The President, in the war message, thus introduces the subject—"British cruizers have been in the continued practice of violating the American flag on the great highway of nations, and of seizing and carrying off persons sailing under it; not in the exercise of a belligerent right, founded on the law of nations against an enemy, but of a municipal prerogative over British subjects." As this does not present the case in its true light, I shall, for the purpose of fairly bringing to view the conflicting claims of the two nations, give you an extract from the letter of Mr. Madison

to Mr. Monroe, of the 5th of January, 1804, containing instructions for a treaty with Great-Britain. "With this exception, (persons in the military service of an enemy) *we consider a neutral flag on the high seas, as a safeguard to those sailing under it.* Great-Britain, on the contrary, asserts a right to *search for and seize her own subjects*; and under that cover, as cannot but happen, are often seized and taken off, citizens of the United States, and citizens or subjects of other neutral countries, navigating the high seas, under the protection of the American flag."

The claim then on the part of the British is, that in time of war they have a right to enter neutral merchant vessels on the high seas, to search for and seize their subjects, being seamen. On our part it is, that on the high seas the flag shall cover and protect all sailing under it, whether British subjects or American citizens. These are distinctly the claims of right on the part of the two nations, and I shall so consider them, without regard to practice apart from right.

One or two remarks, Sir, before I enter upon the subject. The first is, that I do not mean to moot the point, relative to the rights of our naturalized citizens, or the extent of our duties towards them. But this I will say, that I am willing to give them all the protection which the situation of the country and its true interests will justify. I know that the unruly passions and the meddling dispositions, of some foreigners, have raised prejudices in the minds of many persons against all foreigners. But I know also, and I speak without reference to political opinions or prejudices, that among our naturalized citizens, are to be found men, and many men too, of great worth and respectability, and who are extensively useful to the country. These men have my good will, and it is certainly my wish, that they should be fostered and protected, as far as it can be done, without putting at hazard the great interests and the permanent welfare of the country.

But, Sir, to this class of our citizens, the claim that they are to be protected on the *high seas* by our flag, is really of little importance. Our claim never was, and I am sure never will be, that they are to be protected, if they put themselves within the power of their former sovereign, by going to his ports, or placing themselves on his territories. And yet such is the state of the commerce of the world, that it can scarcely happen in a mercantile voyage, in this or the other hemisphere, that the vessel will not at some time be in a British port, and the crew on British ground: our right of flag will not then save our adopted citizens from impressment. For the slight benefit, therefore, to our naturalized citizens, which can arise under our claim, if established, I am sure the well-meaning and reasonable part of them will not ask the country to continue the war on their account.

Another remark which I wish to make is, that I am most decidedly the friend, nay, Sir, if you please, the partisan, of the

seamen of the country. I have no doubt that this nation is destined to be a great maritime power; and that, in times not very far distant, we are to owe our prosperity, as a commercial people, and possibly, under providence, our security, to our seamen. I am therefore a friend to "seamen's rights," properly understood and fairly enforced; but this shall not blind me to the rights of others. Besides, in a war to be carried on for seamen alone, and that too on the abstract question of the right of flag, I can see great danger to the seamen in their just claims to protection; and I must beg their friends, in and out of this house, to reflect before they act. As surely as the war is continued on this ground alone, so surely will seamen become unpopular, and their rights be neglected. When the evils of the war press upon the country, and press they will; when the many lives sacrificed, and the countless millions expended, shall be brought to view, is it not to be apprehended that seamen and their claims will be remembered, only as the causes of the scenes of expense and blood through which we are to pass? It is not dealing fairly with our seamen, to make them the scape-goats of this war.

The British then claim the right, in time of war, to take their seamen out of neutral merchant vessels on the high seas

*Is this claim a novel one?* That the claim is novel, is certainly intimated by the committee of foreign relations, when they say that the impressment of which we complain, is "a practice which has been unceasingly maintained by Great-Britain in the wars to which she has been a party since our revolution." Indeed it has been most roundly asserted, and by many it is believed, that the British claim was made for the first time after our war; that it originated in views hostile to our commerce and maritime rights; and that in practice it is only brought to bear upon us. In truth, however, whatever may be the justice of the claim, it is not a recent one. It has, in a greater or less degree, been practised on in all the wars in which England has been engaged for the two last centuries.

The instructions to armed ships is not frequently made public but it so happens, that we have in print an instruction on this very point, given in 1646, by the Earl of Northumberland, Lord High Admiral of England, to Sir John Pennington, which goes beyond the present claim. "As you meet with any men of war, merchants, or other ships, belonging to any foreign prince or state, or in any road where you, or any of his majesty's fleet may happen to come, you are to send to see whether there be any of his majesty's subjects on board; and if any seamen, gunners, pilots, or marines, (whether English, Scotch, or Irish,) be found on board, you are to cause such of his majesty's subjects to be taken forth, and so disposed of as they shall be forthcoming, to answer their contempt of his majesty's proclamation in that kind." These instructions were modified in the reign of Charles the second, so as to exclude public armed vessels, and with this modification they have come down to the present

times. If it were at all necessary to the purposes of my argument, I might show that this right has been exercised both towards France and Holland, long before we had existence as a nation. Their vessels have been searched, and British seamen taken from them. But enough has been said to prove that the claim, if unjust, is not novel.

*Is the claim peculiar to the British?* I am justified in saying, that this claim, in time of war, to search for and seize seamen in neutral merchant vessels, on the high seas, has been made and exercised by every maritime nation in Europe. To be more particular—I assert, and stand ready to prove, that it has been made and enforced by France as well as England, and is so now. It would be a waste of time to go very much at large into the French usages on this subject. I propose to do little more than to refer to one or two French ordinances, and then show from our state papers their practical application to us.

By the French laws, and they are ancient laws, the seamen of the country are all classed, and enrolled, and licensed. In 1784, an edict was made, which is still in force, declaring, that any classed seaman, who shall, in time of peace, be found serving in foreign ships, shall be sentenced to 15 days' confinement, and reduced to the lowest wages, and serve two years extraordinary at the lowest rate; but those who, in time of war, shall be arrested in foreign ships, or passing into foreign countries, shall be sentenced to three years' service in the galleys." Under the authority of this, and similar ordinances, the French have taken their seamen out of our vessels, and in some instances our seamen with them.

Mr. Chairman, the first proof relative to the French practice which I shall lay before the committee, is the impressment document of January last, known to the American people as the 6057 document. The Secretary of State, Mr. Monroe, at the close of the introductory report, says, "it is equally impossible, from the want of precise returns, to make an accurate report of the names or number of *citizens of the United States, who have been compelled to enter into the French service, or are held in captivity under the authority of that government*, whether taken from vessels captured on the high seas, or seized in rivers, ports, or harbours; the names of a few only, greatly below the number believed to be so detained, being within the knowledge of this department. A detail therefore is not attempted, with respect to this part of the call of the House of Representatives." Yes, sir, it is known to the administration, that some of our citizens have been compelled to enter into the service of the French Emperor, while others are held in captivity by him. Ask, however, for their names, and you have for answer, that all the persons detained are not known to the government, and therefore it cannot be material that you should have the names of any. Say to gentlemen, here is a case of American rights violated, and you will be told, that the injury, in practice, is not of sufficient

importance to justify strong measures against the French government. Be it so. But attempt to prove to the same gentlemen, that the practical operation of British blockades and orders in council, is not such as to require war, you will then hear, that it is necessary to fight about the principle.

I have one other paper to lay before the committee, on this subject. For some years back, the information about French impressments, has been general and vague, or altogether withheld. Formerly this was otherwise. In a report respecting the impressment of seamen in 1797, made by the Secretary of State to this house, on the 27th of February, 1798, we have the names of upwards of twenty American citizens, taken out of American vessels, on the high seas, by French privateers. We have more, Sir. This same report states, that two French seamen named Lewis, had been impressed from on board the American ship *Bryseis*, by a French Commodore's ship; that Francis Gibbons, a native of France, but married and resident at New-London, in Connecticut, was impressed from the American ship *Edward*, at Rochefort, by authority of the French republic, and put on board a French ship of war; and that Henry Doughty, an American, was impressed at sea, from the American brig *Elsa*, by the French frigates *Lapancey* and *Thetis*. I could instance other cases, but these are sufficient to show, that neither the claim nor the exercise of it is peculiar to the British.

*It is a claim altogether unsupported by reason.* As I understand the nations who contend for this right to seize their seamen, it is founded on the principle of national law, which gives to every government a right to the service of its subjects in time of war. I meddle not, Sir, with the question, who is, or who is not, a subject; but as long as a person is a subject, and owes allegiance, and may demand protection, so long has the community a claim on him, when the country is in distress or danger. And this, not by any municipal regulation, properly so called, but by general law. It is a right necessarily growing out of a state of society.

If this is a right, then there must be a remedy also. To allow that a sovereign has a claim to the services of his subject, is necessarily to admit, that he has the power in some way to enforce such claim. As to sailors, the right is a dead letter, unless search and seizure on board neutral merchantmen is allowed. In every war, if the principle is established, that the flag shall protect all sailing under it, seamen would be drawn from the country and its service into neutral employ. High wages, with security against the hazards and dangers of war, would overbalance considerations of general duty. Let it be known to the seamen of England or of France, that they may safely sail under the American flag during the existing war, and my word for it, they will come to you, to the extent of your ability to employ them.

In the case of a national ship, the seaman enters under the government; and it is therefore fair to presume, and ought to be presumed, that there is no violation of right, on breach of duty. If a seaman of a belligerent, or a deserter, is employed, the comity of nations, and the respect due to governments, make a request for a discharge or delivery necessary. But in this case, if the demand is refused, a national right is violated, and it becomes a legitimate cause of war. Not so with a merchant vessel. The sovereign is not concerned with the crew or the voyage. No duty exists not to employ foreigners. If the commander refuses to surrender any one of his crew, although he is the subject of the demanding nation, and even a deserter, the government is not concerned. The refusal is no cause of war. Seizure is therefore the only remedy. It is, Sir, unnecessary to view the subject in all its bearings; what has been said was intended merely to show that there are some grounds for the claim.

*Is it our real interest to oppose this claim; in other words, would it be a substantial and permanent benefit to this country, to establish the principle, that the flag should in all cases, cover and protect the person?* To question this, may seem strange to gentlemen; and yet, Sir, after much reflection, I have almost brought myself to believe, that it would neither comport with the interest of our own seamen, nor with that of the nation, to have the right of flag, as we are made to contend for it, inserted in the law of nations.

The recent French doctrine, that the flag shall cover the property to whomsoever it may belong, like this, that the flag shall protect the person, had at one time many advocates in this country, and there are not wanting some, even at this day, who think it altogether favourable to us. Yet, Sir, our experience is sufficient to satisfy any practical man, that it is our interest to adhere to the old rule on this subject. In peace it has been the horn of plenty, which has poured riches into the country. When the French colonists could no longer cover their property by neutral flags, they were driven in consequence to sell to our merchants. All the profits on the European sale, and it was certainly great, became ours, and the ship-owners had the advantages of a double freight, as the merchant was enabled to fill the vessel in, as well as out. If the colonists could have sent their property home without danger of capture, they would have done it. The profit to the merchant would have been lost, and the ship owner would have had an outward freight only.

In war, Sir, we find the old doctrine equally necessary to us. If Great-Britain is vulnerable to us, it is essential in her commerce with her colonies and allies in this hemisphere, which passing by our door, is thrown in our way. But if the flag is to give a character to the property, all she has to do, is to borrow a Spanish or Portuguese vessel, and her commerce is placed be-

yond our grasp or power. We are too apt to form general conclusions from individual cases, and to suffer our judgment to be misled by fine speculations, which favour our wishes. This religion of the flag, has many charms for those who will not suffer themselves to think of consequences; when, however, it is viewed with the lights of experience, the charm vanishes. We then see the advantage and necessity of old rules, and are willing to be regulated by them. I have said, Sir, the right of flag does not appear calculated to promote the real interests of our own seamen. The interest of the sailor is to have good wages, and constant employment; and he is sure with us to have both the one and the other, if foreign seamen do not interfere with him. If foreigners are admitted to be covered and protected by our flag, it must follow, from the low wages in Great-Britain, and the liability to impressment, that English sailors will come in shoals to this country. They will by this competition lessen the wages of our native sailors, if they do not absolutely drive them from the ocean, for want of employment.

Mr. Chairman, it may seem absurd to say, that the security of the great body of our seamen has been found in the British practice of impressment, with all its evils: and yet there is some foundation for such an opinion. Our own regulations place all seamen, native and foreign, on the same footing, and allow them equal privileges: is it not then fair to infer, that but for the danger of being impressed by their own nation, we should have been overrun by British sailors, to the great injury of our own sailors? In truth, Sir, in principle, the operation of the British claim is favourable to American seamen. All they require, is a regulation of the practice, so as to furnish them with a reasonable security against impressment.

In a national point of view, the right claimed by the European maritime nations, appears all important to this country; and I venture to predict, that those who witness the close of the next half century, will see us practising on this very claim, and if necessary, fighting for it. There can be no doubt, Sir, that we are to be a great maritime power, as we are already a great commercial nation. Indeed, to continue the latter, we must become the former. Our future wars will be maritime wars.—The business of the Canadas and the Floridas, according to the common course of events, will settle itself, and if we meet a foe, it must be on the ocean.

To carry on a maritime war, we must have ships; but ships, without seamen to navigate and fight them, will be useless. It will therefore be absolutely necessary to settle on some principle, which will give us as much command over our seamen, on their element, as we have over our landsmen on shore. Without meaning to intimate that we will or ought to resort to the European practice of impressment, yet, when we seriously determine on having a navy, we shall find it necessary to look to some regulation, which will bring our sailors within the country

in every war, so as to make it their interest to go into our service. We shall have no means to prevent their accepting the bribes of neutrals, high wages, and safe employment, but by seizing them, when found sailing under neutral flags, after they shall be recalled.

If, Sir, there is any thing in this course of reflection, and I do think there is, then so far from being bound in duty to the nation or to our seamen, to continue the war with Great-Britain on the abstract question of right, we are ourselves interested in preserving the very right claimed by that nation. What we have to contend for, is in reality, that the practice by the British, and all other nations, should be so regulated, as to afford to our seamen a reasonable degree of security. For as to perfect and absolute security, their habits, and the nature and scene of their employment, renders that impossible. Their service will of course bring them, and that frequently, within the British territories, where our doctrine of the religion of the flag will not protect them. In point of fact, a considerable number of the impressments reported to us, took place on British ground, and not on the high seas.

If this right, or claim of right, however, is made a mere pretext by any nation, to seize and detain our seamen, I am willing to allow that it would be a cause of war. But even in this case, war ought not be waged, until we had done our duty to our seamen and the offending nation, by making suitable regulations, to prevent the employment of the seamen of such nation. Have we done this, as respects Great-Britain? Perhaps some such regulation is to be found, in the law which defines what vessel is an American vessel, and which, as such, is entitled to hoist our flag. Look at it, Sir. According to the act of December, 1792, an American ship, is one wholly owned by an American citizen, and commanded by a person also a citizen. The crew may be all foreigners, all Englishmen, and if you please, all English deserters. In this, therefore, we find no security to the British government.

But we have also the law of May, 1796, which provides, that the collectors may register seamen, calling themselves American, and grant certificates of citizenship. Out of this law, it is presumed, has grown the practice of granting protections, as they are called; papers procured from notaries and magistrates, oft-times on the most barefaced perjuries, and always considered as a species of negotiable property for value received. Sir, these protections, in their abuse, are a scandal to the nation.—It has made false swearing an employment, and the granting of false papers a business. The price of such a paper, is as well known in the great sea-port towns, as is that of your stocks.—All ages, and complexions, and tongues, may have this badge of citizenship, by paying the charges in such cases provided. If this, however, was not so; if protections were only granted to real Americans, it is difficult to see, how this is to prevent the



employment of British sailors. It is not necessary that the persons navigating an American vessel should have them.

This act of ours was presented to the British government, by Mr. King, in January, 1797, and Lord Grenville, on the 27th of March following, in a manner highly conciliatory, and certainly with much force, stated specific objections to the law.—The executive, when, in July last, he answered the call of the Senate, for papers relative to impressments, omitted this letter of Lord Grenville, but he gives a letter from the then secretary of state, to our minister at the British Court, of the third of October, 1797, in which the force of the objections seems to be admitted. “ Lord Grenville’s observations on the act of Congress for the relief and protection of American seamen, present difficulties which demand consideration at the ensuing session.” Nothing was, however, done at that or any future session. In truth, we have done nothing, to prevent the employment of British seamen in our public or private ships; and they are to be found in both. And yet, with this fact staring us in the face, we are called upon to say that the war is altogether just on our part!

It will probably be urged, that the British practice under their claim, in its application to us, was sufficient to prove, that the reclamation of their seamen was not so much the object of the British government, as the seizure of our seafaring citizens; that it had become so outrageous, as not only to justify, but to require war.—Without, Sir, meaning to excuse or to palliate the taking even a cabin boy, if done knowingly and wittingly; and being willing to admit, that about the period of the attack on the Chesapeake, we had much and serious cause to complain on the subject, I must be permitted to say, that I have not evidence to satisfy me, that when we declared war, the practice of the British was such as to prove, that the claim on their part was a mere pretext to take our sailors. In truth, I believe, if the administration have not deceived themselves on this subject, that they have attempted a gross deception on the public.

The instructions given at this day, by the British admiralty to a naval commander, on this subject, directs him, “ when he meets with any foreign ship or vessel, to send a *lieutenant*, to inquire whether there may be on board of her, *any seamen* who are the *subjects* of his majesty; and if there be, to *demand them*, *provided it does not distress the ship*: he is to demand their wages up to the day; but he is to do this without detaining the vessel longer than shall be necessary, or offering any violence to, or in any way ill-treating the master or his crew.” Mr. Monroe may perhaps recognize in this, the instructions shown to him after his arrangement, and of which he declared himself satisfied; but whether he does or not, it must be conceded, that it provides for a moderate exercise of the right. The person who is to make the search, is an officer

of some standing; he is only to take seamen who are British subjects, excluding thereby, not merely our citizens, but all foreigners; and he is not to take even British seamen, if by it he destroys the crew, or endangers the vessel. Allowing the right to exist, it is difficult more fairly to regulate its exercise.

But it may be urged, that the practice of the British commanders does not correspond with these instructions; that they search and seize at large according to their will and pleasure. I know, Sir, that the habits and education of a military man, not unfrequently make him act as if power and right meant the same thing: and I therefore have no doubt that there have been abuses. But I do most conscientiously believe, that these abuses have been greatly magnified, and are, even by the well meaning, vastly overrated. I am aware, that I shall be referred to the impressment document of last session. This document, Sir, is so illy understood, and has been the source of so much misrepresentation, that I must be allowed slightly to review it.

The Secretary in the report says, that the list transmitted, had been received from our agent at London, and "contains the names of American seamen and citizens *who have been impressed and held in bondage in his Britannic majesty's ships of war, for the several quarters of 1809 and 1810.*"—The list is headed, "A return or list of American seamen and citizens, who have been impressed and held on board of his Britannic majesty's ships of war, from 1st of April to the 30th of June, inclusively," and so of the other quarters. Now the plain meaning of this is, if any meaning it has, that the persons whose names were thus sent to us, were impressed and made to serve on board British armed ships, at some period in the years 1809 and 1810. Indeed, this has been so stated in this house, and in the administration prints. And yet the most superficial examination will show, that this is not true. Let me read to you one or two names: "4868. David Wiley." In the column of the "result of applications and remarks," we have this explanation of his case—"Impressed on shore at New Brunswick, and taken on board the Plumper, was detained *two days*, when the commander put him on board a vessel bound to Aberdeen, from thence worked his passage to London, and appeared at this office *29th August, 1805*; is evidently an American. Discharged." Here then we have a man who was not on board a British ship in 1805, and whose "bondage" did not probably continue more than two days.

Again "4936. Richard Butler, representing himself of Petersburgh, Penn. Impressed in 1797 at the Cape of Good Hope, from the Mercury of Baltimore, and detained on board the Garland." Remark. "Remained on board the Garland *two months*, then drafted to the Tremendous, in which he served *two and an half years*, was then discharged; has never received his wages or prize-money; says he was well used on board

both ships. *Was discharged as an American citizen at the Cape of Good-Hope*; his pay and prize-money lists were given to the consul at the Cape Discharged." This man, therefore, according to the statement of our consul, so far from having been impressed and held on board a British ship in 1809, had been impressed in 1797, and discharged in 1799. I might, Sir, give you many other cases equally strong, but these are sufficient to prove that, by design or mistake, the document is wrongly headed: that the persons named in the list were not all on board British ships in 1809 and 1810: and therefore, that in its general results, it does not show the state of the British practice in those years.

In truth, the list is nothing more than the return of the names of persons who, within the year, had applied to Mr. Lyman, our consul and agent for seamen, for protections against future, or for his aid in getting released from present, impressment. It was his duty, as I do not doubt it was made his interest, to receive all applications, and when necessary, to lay them before the proper British authority. Jew and Greek, Turk and Christian, the growth of our own soil and the produce of other countries, all threw themselves upon Mr. Lyman, and he, labouring in his vocation, granted patents of citizenship, or made his claim on the British admiralty. Sir, there is not a man who, in practice or by inquiry, has made himself acquainted with the manner in which this business is transacted, but knows, that many foreigners, who never saw this country, or sailed under its flag, have attempted, by application to our agents abroad, to shield themselves against British impressment. The secretary of state, Mr. Monroe, needs no information on this subject, having himself resided in London as our minister. It was the duty of our agent to send home some account of his proceedings, and I have no objection to his making such a list as we have before us. But I do object to its being palmed on the American nation, as a true history of British impressments affecting our people and nation. I pray you look at this list. In the year commencing in April, 1809, and ending in March, 1810, we have about 949 names, and of these about 700 are given with blanks in the columns for the—"towns and states of which they represent themselves to be citizens"—"when impressed"—"where impressed"—ships from whence taken"—"nations"—"masters."—The time and the result of the application are only given. And from these entries in Mr. Lyman's book, you are called upon to admit, that the applicant was an American, and that he was impressed in the year 1809, by the British, on the high seas, out of an American vessel. Really this is asking too much.

Mr. Chairman, I have examined the list from April, 1809, to April, 1810, with great attention, for the purpose of ascertaining the number of impressments, which took place in that year, and I will now make to you one or two statements, which may cast

some light on the subject of the British practice. The number which by the list appears to have been impressed in that year is one hundred. It will be understood, that in this number I do not include those whose names are carried out in blank as has been stated. It is uncertain whether such persons ever were impressed, and at all events, it is fair to presume, that their service on board British ships had commenced before 1809, or otherwise there could be no difficulty in giving dates. Of the 100, seventy-six were discharged, and six had deserted, leaving less than twenty to be accounted for. Another result. Of the persons thus taken, 57 were impressed on shore and 43 at sea. Again—30 of these seamen, when impressed, made part of the crews of British vessels, and 34, American vessels, and of the 34, twelve were taken on land, leaving but about 22 persons taken from American vessels on the high seas. It is possible, Sir, that in these statements I may not be perfectly accurate; I am certain, however, that I am substantially so.

I do not mean to represent that this is a full account of all the impressments which took place in 1809; on the contrary, I admit that it is not. Many impressments were certainly made, of persons undeniably British subjects, who would scarcely think of applying to Mr. Lyman, and will not therefore be found in his book. Many persons also having a right to his interference, were not then known to him. My object in making these explanations, was to show that the 6, 0, 5, 7 document does not furnish such strong evidence of British aggression as has been supposed.

The number of our seamen impressed by the British, has been so variously represented, that I have, from motives of curiosity as well as duty, been desirous to arrive at something like a reasonable certainty on the subject. We hear of ten, twenty, nay, forty thousand of our citizens, confined in the floating dungeons of Great-Britain, fighting her battles against their will. The evidence of this, however, is only to be found in the imagination of gentlemen. It is the old story over again of the six men in Buckram. In part representing the greatest commercial state in the union, it may be expected that I have some personal knowledge on this subject, but indeed I have none such to give. Is there not in this some proof that the evil has been magnified? I have sought for information, in quarters where only it is to be found, among the shipping merchants and ship owners of the country. I will now furnish you with the opinion of an intelligent gentleman from Marblehead, whose means of information is ample, and whose veracity will not be doubted. I mean my friend from Massachusetts, who sits before me, (Mr. Reed.) He has favoured me with this statement.

“In answer to your inquiry, relative to the seamen of Marblehead, I have to remark, that the average shipping of that port for the last twenty years, may be estimated at about 19006.

tons, of which it is fair to calculate 10,000 tons were employed in foreign commerce, and the residue in the fisheries and in the coasting-trade. Allowing six men to every 100 tons, which is the usual estimate, it gives an average of 1176 seamen in all, and 600 in our foreign trade each year; the number of seamen therefore employed from Marblehead for the last twenty years, must have been considerable, say 5000. I have resided at that place nearly twenty years, and during the greater part of the time, have been actively engaged in commerce. According to my own recollection, aided by that of others who have the best means of information, I do not believe that twenty of the seamen of Marblehead, native or naturalized, have been impressed by the British within the twenty years, and it is not known that one has been demanded without being released."

As there is no reason to suppose, that Marblehead has been more fortunate with respect to impressments than other places, we have here something, whereby to form an estimate of the number of our seamen taken by the British. My own conviction is, that the American seamen impressed and held by the British, at the commencement of this war, did not much exceed 500 in all, and certainly did not amount to 1000. Permit me, Sir, to mention one circumstance which speaks loudly on this subject. If the practice of impressment had been as outrageous as has been represented, it must have fallen with great force on the eastern states, as it is there the mass of our seamen are found. We are then to expect much feeling and passion on this account. The war must be popular when the cause of it is brought home to every man's door. No such thing, Sir. The war is confessedly odious there. It is in states where seamen never grew, that the war has its strongest advocates; it is there that you principally find the dark pictures of sailors' sufferings, and hear the loud and long appeals to the sympathies and passions of the people about seamen's rights, and seamen's injuries.

One inquiry more, Mr. Chairman, on the subject of impressment, and I have done with it. The President, in his war message, says, that no pretext should be left for a continuance of the practice, "the British government was formally assured of the readiness of the United States to enter into arrangements, such as could not be rejected, if the recovery of British subjects were the real and sole object. The communication passed without effect." The committee of foreign relations are more direct still: "Its continuance (the practice of impressment) is the more unjustifiable, because the United States have *repeatedly* proposed to the British government an arrangement which would secure to it the control of its own people. An exemption of the citizens of the United States from this degrading oppression, and their flag from violation, is all they have sought." In these passages we have two distinct propositions, that reasonable offers for an adjustment of this difficult and delicate subject have been proffered by the government, meaning surely the adminis-

tration which commenced, and are willing to carry on, the war on this account; and that the British government would listen to no terms, however well calculated to secure to it the service of its own seamen: Is all this true?

Is it true that the present executive has attempted to negotiate with Great-Britain on this subject; that he has communicated to the British government his willingness and his wish to come to an arrangement, which, while it afforded safety to our seamen, would secure to that country the services of its seamen? What has been done by him is soon told, and ought to be known. The only measure which has come before the public, looking towards an accommodation, by him, is to be found in the letter from Secretary Smith to Mr. Pinckney, of the 20th January, 1810, in which the latter is directed to resume the negotiation with the British government, under the power which had been given to Mr. Monroe and himself. In his discussions, he was to be regulated by the instructions which had been given to them. It is added, "*it is however not intended, that you should commence this negotiation, until the requisite satisfaction shall have been made in the affair of the Chesapeake.*" The affair of the Chesapeake, we all know, was not settled until within a short time before the war was declared, and long after the return of Mr. Pinckney to this country. It follows that Mr. Pinckney could not, as most certainly he did not, commence, a negotiation. No terms have been offered, no arrangement has been attempted to be effected, by the present executive. He cannot say *his* "communications passed without effect," as in fact he made none. And yet by him we are carried into a war on this account.

The President may, however, deem his administration so far identified with that of his immediate predecessor, as to entitle him to the benefit of the offers formerly made. Be it so. We will then examine the sum and value of the propositions of Mr. Jefferson. The instructions to Messrs. Monroe and Pinckney, are to be found in a letter to them from Mr. Madison, then Secretary of State, of the 17th of May, 1806, in which they are referred to the instructions to Mr. Monroe, of the 5th of January, 1804, as applicable to a great proportion of the matters committed to their joint negotiation, and as their guide. In the instructions therefore of 1804, we are to find the arrangement "repeatedly proposed to the British government,"—"which would secure to it the control of its own people."

The instructions of January 5, 1804, were also drawn by Mr. Madison, in his capacity of Secretary of State, and contain the plan of a convention on the subject of seamen, with some other matters, giving the proposal and the ultimatum. The first article provides, that no person shall be demanded or taken at sea, out of a ship of one nation, by the armed ships of the other, unless he is liable to be so taken according to the laws of nations; and not then, if he makes part of the crew. In the observations on the plan, Mr. Madison asserts, and reasons on, the right of flag, and the article is drawn with a view to our claim, and to pre-

vent search and seizure at sea. The eighth article provides, that no refuge shall be given to persons deserting from a vessel, making part of the crew of such vessel: and the eleventh article provides, that "each party will prohibit its citizens or subjects from clandestinely carrying away, from the territories or dominions of the other, any seamen or soldiers belonging to such other party." These articles embrace every part of the convention which relate to seamen. In them therefore are to be found, if any where, the arrangement said to have been repeatedly proposed to the British government. I shall not examine how far such an arrangement was desirable to this country; but did it secure to England the control of its own people, the recovery of its own subjects?

In this plan we find no provision against the employment of British seamen, even deserters. Those already in the country might plainly go into our service, and those who might subsequently reach our shores, were safe when our flag should be waving over their heads. Deserters, it is true, were to be given up; but how could this be done, when they were on the high seas, or had embarked in foreign voyages? The convention, as proposed, will be found, when examined, not to secure to Great-Britain the service of her seamen, or the return of her subjects.

Is it true that the British government would listen to no terms, that they have refused to negotiate on this subject? Sir, it is not true. Lord Grenville, in his letter to Mr. King, of the 27th of March, 1797, which I have already mentioned, uses these expressions—"If it were possible at once to find an obvious and indisputable mode of ascertaining whether a seaman is really a subject of his majesty's dominions, or a citizen of the United States, certainly the King's government would not hesitate to accede to any regulations for applying that rule, in the easiest, most expeditious, and most effectual manner." After stating his objections to our act for the relief and protection of American seamen, he goes on to say, "for the reasons which I have here stated, the force of which I am confident no candid mind can dispute, I am under the necessity of declining, on the part of his majesty's government, to accede to the propositions contained in your letter. If any other proposals can be made, less liable to objection, they will be considered with candour and liberality. *It is not expected, that on so difficult and delicate a business, arrangements can at once be brought forward, wholly free from all objections, or such as to supersede the necessity of frequent revisal, improvement, and addition, in order to meet the different means of evasion that may be resorted to: but it is certainly not too much to ask, that the rules adopted in the first instance, shall at least afford some security against the most extensive and the most dangerous consequences to the maritime power and safety of Great-Britain.*"

Sir, I cannot but admire the force and dignity of the letter of which I have read part. The importance of the subject to both nations is fairly admitted, and a solicitude is evinced for the

adoption of some regulation which would afford security to each. A distinct avowal is made, that the British government do not want our seamen, if they can be left in possession of their own. And a suggestion is added, that a perfect arrangement is not to be expected on the first attempt. Difficulties will arise in practice in any settlement of this business. All that is wanted is a point to start from, and a disposition in both governments to deal fairly and justly. I am not afraid to assert, that if the arrangement of Messrs. Monroe and Pinckney, in 1806, had been adopted with this spirit, we should now have thoughts of impressments merely as an evil which once existed.

But, Mr. Chairman, to come nearer to the present times. In the letter from Messrs. Monroe and Pinckney to Mr. Madison, of the 11th of September, 1806, it is stated that the British commissioners *pressed with much zeal* “a provision, that the persons, composing the crews of such ships, should be furnished with authentic documents of citizenship, the nature and form of which should be settled by treaty; that these documents, should completely protect those to whom they related; but that, subject to such protections, the ships of war of Great-Britain should continue to visit and impress on the main ocean as heretofore.” This provision was rejected by our ministers.

I will not say that such a regulation ought to have been adopted; but I will say, that the proposition proves, that the English government was anxious to adjust this difference; and it proves further, that the great object of the British was the recovery of their own citizens.

The letter of the 11th November, 1806, from Messrs. Monroe and Pinckney to Mr. Madison, gives the history of the negotiation which led to the celebrated arrangement. Permit me to furnish you with one or two extracts from the letter, explanatory of the views and feelings of the British government. “At our meeting the next day, the British commissioners stated explicitly, but in a very conciliatory manner, *that it was not in their power to adopt an article in the spirit of our project*; that the board of admiralty had been consulted on the subject, as had also been the crown officers in Doctors’ Commons, who united all, without exception, in the opinion, that the right of their government in the case in question was well founded, and ought not to be relinquished. *They added, that, under such circumstances, the relinquishment of it was a measure which the government could not adopt, without taking upon itself a responsibility which no ministry would be willing to meet, however pressing the emergency might be.* They presented to us, at the same time, a counter project, which they intimated they did in obedience to the instructions from their government. The British commissioners, after supporting with great force, but with candour, the claim of their government, assured us that it was willing to do *any thing in its power, to satisfy the United States on the ground of complaint, which might be done without a relinquishment of their claim.*”



The amount of this information is, that owing to the feelings, the views, and perhaps the prejudices, of the British people, no ministry dare formally to relinquish the right claimed in the abstract; but that every thing short of this might be expected. We were not to look for a formal surrender of the right, but a regulation of the practice under it. Recollect, Sir, that this is a declaration of the Fox and Grenville ministry, always understood to have been most fair and most friendly to this country. Sir, I am satisfied, and so I am sure are a part at least of the administration, that if this subject is ever settled, it will be by arrangements to prevent injuries to the two countries, in the employment and impressing of seamen, leaving the rights claimed on both sides untouched. Any attempt at negotiation with Great-Britain, on the ground of an abandonment of her claim, is to my mind perfectly hopeless: and as long as I find the administration insisting on this as indispensable, so long I must believe, that it is "within the scope of their policy" to continue the war, and to make it interminable.

Our ministers, in their letter of the 11th of November, go on to state, that at their request the British commissioners communicated to them a note, which was to accompany and to give character to the arrangement. The note declares, that the British government "had not felt itself prepared to disclaim or derogate from a right which has ever been uniformly and generally maintained, and in the exercise of which the security of the British navy may be essentially involved; more especially, in a conjuncture when they were engaged in war, which enforces the necessity of the most vigilant attention to the preservation and supply of the naval force of the kingdom;" but, "*that his majesty's government, actuated by an earnest desire to remove every cause of dissatisfaction, had directed his majesty's commissioners to give to Mr. Monroe and Mr. Pinckney, the most positive assurances, that instructions have been given, and shall be repeated, and enforced, for the observance of the greatest caution in the impressing of British seamen; and that the greatest care shall be taken to preserve the citizens of the United States from any molestation or injury; and that immediate and prompt redress shall be afforded upon any representation of injury sustained by them.*" Sir, this note, and the offers made by the British commissioners, were satisfactory to our negociators, and an arrangement was accordingly agreed upon. The American cabinet, however, refused to accept it; it was sent back, and the affair of the Chesapeake soon after closed the door on any further discussion. How unfair is it then to say, or to insinuate, that the British government have refused to treat on this subject, or to listen to terms which would secure to it the service of its own seamen!

The opinions of Messrs. Monroe and Pinckney, respecting the merits and the effect of the arrangement, might be collected from the circumstance of their agreement to it, but it is not left to inference. In our public papers, they will be found to

have expressed themselves with great clearness and decision. In the letter of November, they say, "When we take into view all that has passed on the subject, we are far from considering the note of the British commissioners as a mere circumstance of form. We persuade ourselves, that by accepting the invitation which it gives, and proceeding in the negotiation, *we shall place the business almost, if not altogether, on as good a footing as we should have done by treaty, had the project which we offered them been accepted,—it merits attention, that every thing is expressed in it that could be desired, except the relinquishment of the principle*; that, in speaking of impressments, the exercise of that act on the high seas is not mentioned, an omission which we know to have been intentional."

And in their letter to Mr. Madison, of the third of January, 1807, transmitting the treaty, the same gentlemen refer to the letter of November, as containing their opinion, that although the British government did not feel itself at liberty to relinquish formally by treaty its claim to search our merchant vessels for British seamen, *its practice would nevertheless be essentially, if not completely, abandoned*. They go on to remark, "that opinion has been *since* confirmed, by frequent conferences on the subject with the British commissioners, who have repeatedly assured us, that in their judgment, we were made as secure against the *exercise* of their pretension, by the policy which their government had adopted, in regard to that very delicate and important question, as we could have been made by treaty. It is proper however to observe, that the good effect of this disposition, and its continuance, may depend in a great measure on the means which may be taken by the congress hereafter, to check desertion from the British service."

You will scarcely think it possible, Sir, that evidence can be furnished, which will more strongly negative the assertion, that the communications to the British government, on the subject of impressment, passed without effect; and yet such evidence does exist. I will now call your attention to the letter from Mr. Monroe to Mr. Madison, of the 28th February, 1808, dated at Richmond. In this letter, Mr. Monroe says, "the idea entertained by the public is, that the rights of the United States were abandoned by the American commissioners, in the late negotiation, and that their seamen were left, by tacit acquiescence, if not by formal renunciation, to depend for their safety on the mercy of the British cruizers. I have, on the contrary, always believed, and *still do believe*, that the ground on which that interest was placed, by the paper of the British commissioners of November 8th, 1806, and the explanations which accompanied it, was *both honourable and advantageous to the United States*; and that it contained a *concession* in their favour, on the part of Great-Britain, on the great principle in contestation, never before made, by a formal and obligatory act of the government, which was highly favourable to their interest."

In a subsequent part of the same letter, Mr. Monroe, speak-

ing of the note, and the omission in it of the terms "high seas," remarks, "it is impossible that those terms could have been omitted intentionally with our knowledge, for any purpose other than to admit a construction, that it was intended that impressments should be confined to the land. I do not mean to imply that it was understood, between the British commissioners and us, that Great-Britain should abandon the practice of impressment on the high seas altogether. *I mean, however, distinctly to state*, that it was understood, that the practice heretofore pursued by her should be *abandoned*, and that *no impressment* should be made on the *high seas*, under the obligation of that paper, except in cases of an extraordinary nature, to which no general prohibition against it could be construed fairly to extend."

Again, and it is the last reference I shall make to these documents, not because much and material matter does not remain, but because I am really tired of the subject. Mr. Monroe, in his Richmond letter, declares, "We were, therefore, decidedly of opinion, that the paper of the British commissioners placed the interest of impressment on ground which it was both *safe and honourable* for the United States to admit; that, in short, it gave their government the command of the subject for *every necessary and useful purpose*. Attached to the treaty, it was the basis or condition on which the treaty rested. Strong in its character in their favour on the great question of right, and admitting a favourable construction on others, it placed them on more elevated ground, in those respects, than they had held before."

The statements thus made by Mr. Monroe and Mr. Pinckney, establish a few facts of great importance, which cannot be too generally known or too frequently repeated. Kept constantly in recollection, and applied as touchstones to offers which have been, or may be made, to the British government, they will show the sincerity of the administration, or their insincerity. They prove that the British will negotiate on the subject of seamen, inasmuch as they have done it. They prove that the British will come to an arrangement with us: for this they have offered. And they prove that the British will accede to propositions relating to impressments, which are safe and honourable, and therefore satisfactory to this country; for this we are told they did. But they prove also, that no ministry in England dare openly and avowedly relinquish the right of search, or recognise, to the extent demanded by us, the right of flag. The practice may be so regulated, and was offered to be so regulated, as to bring the claim into disuse. And what to us is a right claimed but not enforced? When I find the administration dealing less in abstract propositions about seamen's rights and national honour, and attending to what is really to be desired and is known to be attainable, I shall believe in their pacific dispositions, and not till then.

From the time I first saw the arrangement made by Messrs. Monroe and Pinckney, with their account of the negotiation, and the explanatory statement of Mr. Monroe, I have believed.

that the subject of seamen was placed by them on a safe and proper footing. And it has always been with me, feeling as I do for seamen and their rights, a matter of great regret, that the arrangement was not agreed to here. A short experience would have satisfied us as to its practical operation. If by it our sailors were protected, a great good would have been gained. If otherwise, our claim for other terms could not have been resisted. The gentlemen, however, who negotiated the arrangement, have changed characters, and with it, it would seem, their views. They now make a part of the administration, and as such, feel themselves authorized to say, that the British Government have refused to settle the difference on suitable terms. They advised war, and require its continuance on this account. I am not to doubt, that some new light has led to this course ; and it is possible, that with means of information, I may be induced to give up my opinion also. As yet, however, I have seen nothing which destroys the force of their reasoning.

I have now, Sir, finished the remarks which I intended to make on the British claim and practice of impressment. We have for years past had so much idle declamation on the subject, that a dispassionate investigation of it appeared to me to be called for. In the course of these remarks, I have attempted to show that the claim was neither novel nor peculiar, and that it is not wholly unsupported by reason ; that our true interest calls more for a fair regulation of the practice than an abandonment of the rights, and that the conduct of the British of late, has been such as to warrant an opinion, that an arrangement may be made, having for its object a proper regulation of the practice, leaving the rights of both nations, whatever they may be, untouched. Sir, with this view of the subject, it is not possible for me to consent to the adoption of measures, having for their object the further prosecution of the war offensively on our part ; and I cannot therefore vote for the bill on your table. The war has not yet assumed a character. We have indeed added much, and are about to add more, to the public debt. Already a portion of our citizens are burdened with oppressive exactions in the form of duties, and heavy taxes are staring all in the face. But yet our homes and altars remain safe and unpolluted. Let us seize this moment to give the nation peace, and the people happiness. This is the appointed time, and if we do not improve it, I fear my country is to suffer in its prosperity and its institutions. For heaven's sake let us pause.

Mr. Chairman, I intended, when I first rose, to have made some observations on the effects and consequences of this war ; and to have examined what the administration is pleased to term its pacific advances ; but I am really so exhausted that I have not the ability to go on, if the committee had patience to attend to me. With respect to the advances, I will make but a single remark, and that is, that from the circumstances under which they were made, they were exactly calculated, if not intended, to produce the result we have witnessed. Sir, I have done





WERT BOOKBINDING

JAN 1989

Grantville, PA

